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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/790,478

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EXAMINER

PARK, EDWARD

ART UNIT

PAPER NUMBER

2609

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/790,478	Applicant(s) CHEN ET AL.	
	Examiner Edward Park	Art Unit 2609	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/18/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/1/04, 5/16/05</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 1-10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Yokoi et al. (US 6,951,536 B2) in view of Nemeth et al. (WO 01/99703 A2).

Regarding **claim 1**, Yokoi teaches an automatic notification and remote access method for diagnosing real-time in vivo images from a location remote from one or more in vivo video camera systems, comprising the steps of:

- a) capturing multiple sets of real-time in vivo images ("set of images captured inside the

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body”; Yokoi: col. 19, line 63-64) using the one or more in vivo video camera systems (“an image pickup device and an illumination device”; Yokoi: figure 4; col. 4, lines 65-67);

c) processing the examination bundlette (“control circuit ... conducts a comparative processing such as pattern matching of the captured image and the disease image read out from the disease database ...”; Yokoi: figure 18; col. 19, lines 29-35)

Yokoi does not teach forming an examination bundlette, automatically detecting one or more abnormalities in the examination bundlette, signaling an alarm, receiving an automatic notification, routing the automatic notification to remote recipient(s), and executing one or more diagnosing tasks.

Nemeth, in the same field of “monitoring medical data” (Nemeth: pg. 1) teaches:

b) forming an in vivo video camera system examination bundlette of a patient that includes the real-time (“real time”; Nemeth: pg. 9, line 20) captured in vivo images for each of the one or more in vivo video camera systems (“medical data relating to physiological or biological status of a patient includes all data relating to the physical condition and composition of the patient”; Nemeth: figure 1, numeral 10; pg. 14, lines 19-21). Images fall under the category of medical data since it is well known in the art that data transcribed in the form of medical images are essential for examination purposes.

d) automatically detecting one or more abnormalities in the examination bundlette (“analyze the medical data to determine if any of the conditions under which an alert is to be provided”; Nemeth: figure 2, numeral 58; pg. 22, lines 20-28) based on predetermined criteria for the patient (“data input by the patient, such as data related to the patient’s diet, rest,...”; Nemeth: pg. 21, lines 23-25);

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e) signaling an alarm provided that the one or more abnormalities in the examination bundlette have been detected (“analyze the medical data and provide the third party with an alert if the medical data meets the established conditions for an alert”; Nemeth: figure 2, numeral 58; pg. 32, lines 17-18);

f) receiving an automatic notification via one or more unscheduled alarming messages from one or more randomly located in vivo video camera systems “store the medical data and other related information for review by third party” (Nemeth: figure 2, numeral 64);

g) routing the automatic notification to remote recipient(s) (“other parties can be notified in the same or a different manner”; Nemeth: figure 2, numeral 68, pg. 11, lines 5-12); and

h) executing one or more diagnosing tasks corresponding to the automatic notification (“third party may instruct the patient to take certain remedial measures”; Nemeth: figure 2, numeral 70; pg. 27, lines 30-32; pg. 28, lines 1-16).

It would have been obvious at the time the invention was made to one of ordinary skill in the art to modify the Yokoi reference to utilize forming an in vivo video camera system examination bundlette of Nemeth, in order to further enhance the treatment of a patient by allowing all data to be accessible at once by any party.

It would have been obvious at the time the invention was made to one of ordinary skill in the art to modify the Yokoi reference to automatically detect one or more abnormalities in the examination bundlette based on predetermined criteria for the patient as taught by Nemeth, in order “analyze and respond to the medical data in a timely matter” (Nemeth: pg. 8, lines 11) and to reduce human errors in manual detection.

It would have been obvious at the time the invention was made to one of ordinary skill in the art to modify the Yokoi reference to signal, receive, and route an alarm/message, and to execute one or more diagnosing tasks as taught by Nemeth, in order to allow “the third party to quickly review the medical data and other related information, to provide instructions for any necessary remedial action” (Nemeth: pg. 33, lines 3-5) and to effectively treat the patient’s illness or ailment.

Regarding **claim 2**, the rejection of claim 1 is incorporated and Yokoi further discloses wherein the unscheduled alarming messages correspond to a detection (“conducting examination”; Yokoi: col. 2, lines 5-7) of an abnormality found in the patient’s GI tract (“inside of somatic cavities”; Yokoi: figure 1, numeral 16A, B; col. 2, lines 5-7).

Regarding **claim 3**, the Yokoi and Nemeth combination teaches the elements disclosed in claim 1. The combination does not teach where in the automatic notification includes patient metadata describing the patient’s medical history and location. Nemeth, further in view of the Yokoi and Nemeth combination, teaches where in the automatic notification includes patient metadata describing the patient’s medical history and location (“position of the patient underlying medical data”; Nemeth: pg. 10, lines 5-15). It would have been obvious at the time the invention was made to one of ordinary skill in the art to modify the Yokoi reference to include patient metadata describing the patient’s medical history and location as taught by Nemeth, in order to have all related patient information bound together to effectively treat the patient’s illness or ailment.

Regarding **claim 4**, the rejection of claim 1 is incorporated and Yokoi further discloses wherein the one or more randomly located in vivo video camera systems are located in different

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geographic regions of a country and/or a continent (“patient is in a remote location far from a hospital”; Yokoi: fig. 36A, B; col. 25, lines 20-31).

Regarding **claim 5**, the Yokoi and Nemeth combination teaches the elements disclosed in claim 1. The combination does not teach providing a communication channel and providing the remote recipient(s) with the automatic notification of a detected GI tract abnormality. Nemeth, further in view of the Yokoi and Nemeth combination, teaches wherein the step of routing the automatic notification to the remote recipient(s), further comprises the steps of:

g1) providing a communication channel to the remote recipient(s) (“medical data is transmitted via the internet such that the third party can view the medical data”; Nemeth: pg. 10, lines 24-25); and

g2) providing the remote recipient(s) with the automatic notification of a detected GI tract abnormality (“transmit an alert if it is determined that the medical data meets the conditions established for the generation of an alert”; Nemeth: pg. 10, lines 29-31).

It would have been obvious at the time the invention was made to one of ordinary skill in the art to modify the Yokoi reference to provide a communication channel and automatic notification as taught by Nemeth, in order to allow “the third party to quickly review the medical data and other related information, to provide instructions for any necessary remedial action” (Nemeth: pg. 33, lines 3-5) and to effectively treat the patient’s illness or ailment.

Regarding **claim 6**, the rejection of claim 1 is incorporated and Yokoi further discloses wherein the unscheduled alarming messages operate within a two-way messaging system (“cellular phones, internet”; Yokoi: fig. 36A, numeral 182; col. 25, lines 38-39).

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Regarding **claim 7**, the rejection of claim 1 is incorporated and Yokoi further discloses wherein the remote recipient receives messages by utilizing a two-way messaging system (“cellular phones, internet”; Yokoi: fig. 36A, numeral 182; col. 25, lines 38-39).

Regarding **claim 8**, the rejection of claim 1 is incorporated and Yokoi further discloses wherein the remote access is accomplished by a communications network (“transmission may be conducted with other communications means such as cellular phone, internet”; Yokoi: fig. 36A, numeral 182; col. 25, lines 9-13, 35-39) for retrieving and/or sending the patient's in vivo images from multiple locations either inside or outside (“remote site”; Yokoi: col. 25, lines 9-13, 35-39) of a clinical environment (“remote location far from a hospital”; Yokoi: col. 25, lines 9-13, 35-39).

Regarding **claim 9**, the rejection of claim 1 is incorporated and Yokoi further discloses wherein the step of forming the examination bundlette; includes the steps of:

b1) forming an image packet of the captured in vivo images of the patient (“image data ... accumulated in memory”; Yokoi: col. 22, lines 11-13);

b2) forming patient metadata (“memory storing the patient's data”; Yokoi: col. 22, lines 21); and

b3) combining the image packet and the patient metadata into the examination bundlette (“when the image data are transmitted, the patient's data stored in the memory may be transmitted as header information of the image data”; Yokoi: col. 22, lines 20-25).

Regarding **claim 10**, the rejection of claim 1 is incorporated and Yokoi further discloses wherein the step of processing the examination bundlette, includes the steps of:

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b1) separating the in vivo images from the examination bundle (“identification code may be recognized by the external unit and separated from the image data” Yokoi: col. 20, lines 43-44);

b2) and processing the in vivo images according to selected image processing methods (“control circuit ... conducts a comparative processing such as pattern matching of the captured image and the disease image read out from the disease database ...”; Yokoi: figure 18; col. 19, lines 29-35).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Park whose telephone number is (571) 270-1576. The examiner can normally be reached on M-F 09:00-17:00, (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Brian Werner can be reached on (571) 272-7401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Edward Park
Examiner
Art Unit 2609

EP 1/31/07



BRIAN WERNER
SUPERVISORY PATENT EXAMINER